


 PLYMOUTH COUNTY  
 Docket Report

1783CV01181 Canoe Club Ballroom, Inc. vs. Lowe's Home Centers, LLC et al

**CASE TYPE:** Contract / Business Cases  
**ACTION CODE:** A01  
**DESCRIPTION:** Services, Labor and Materials  
**CASE DISPOSITION DATE** 01/05/2018  
**CASE DISPOSITION:** Transferred to another Court  
**CASE JUDGE:**

**FILE DATE:** 11/13/2017  
**CASE TRACK:** F - Fast Track  
**CASE STATUS:** Closed  
**STATUS DATE :** 01/05/2018  
**CASE SESSION:** Civil B

## LINKED CASE

## DCM TRACK

| Tickler Description        | Due Date   | Completion Date |
|----------------------------|------------|-----------------|
| Service                    | 02/12/2018 | 01/05/2018      |
| Answer                     | 03/13/2018 | 01/05/2018      |
| Rule 12/19/20 Served By    | 03/13/2018 | 01/05/2018      |
| Rule 15 Served By          | 03/13/2018 | 01/05/2018      |
| Rule 15 Filed By           | 04/12/2018 | 01/05/2018      |
| Rule 12/19/20 Filed By     | 04/12/2018 | 01/05/2018      |
| Rule 15 Heard By           | 05/14/2018 | 01/05/2018      |
| Rule 12/19/20 Heard By     | 05/14/2018 | 01/05/2018      |
| Discovery                  | 09/10/2018 | 01/05/2018      |
| Rule 56 Served By          | 10/09/2018 | 01/05/2018      |
| Rule 56 Filed By           | 11/08/2018 | 01/05/2018      |
| Final Pre-Trial Conference | 03/08/2019 | 01/05/2018      |
| Judgment                   | 11/13/2019 | 01/05/2018      |

## PARTIES

|   |   |        |
|---|---|--------|
| <b>Plaintiff</b><br>Canoe Club Ballroom, Inc. | Christopher Strang<br>Strang, Scott, Giroux & Young, LLP<br>Strang, Scott, Giroux & Young, LLP<br>654 Beacon St<br>6th Floor<br>Boston, MA 02215<br>Work Phone (857) 233-5534<br>Added Date: 11/13/2017 | 664742 |
|---|---|--------|



## PLYMOUTH COUNTY

## Docket Report

|  |  |        |
|--|--|--------|
| <b>Defendant</b><br>Lowe's Home Centers, LLC | <b>Private Counsel</b><br>Cassandra Lee Feeney<br>Adler Cohen Harvey Wakeman and<br>Guekguezian, LLP<br>Adler Cohen Harvey Wakeman and<br>Guekguezian, LLP<br>55 Dorrance St<br>Suite 302<br>Providence, RI 02903<br>Work Phone (401) 521-6100<br>Added Date: 01/02/2018 | 681352 |
| <b>Defendant</b><br>Trane U.S. Inc.          | <b>Private Counsel</b><br>Cassandra Lee Feeney<br>Adler Cohen Harvey Wakeman and<br>Guekguezian, LLP<br>Adler Cohen Harvey Wakeman and<br>Guekguezian, LLP<br>55 Dorrance St<br>Suite 302<br>Providence, RI 02903<br>Work Phone (401) 521-6100<br>Added Date: 01/02/2018 | 681352 |

**PARTY CHARGES**

| # | Offense Date/<br>Charge | Code | Town | Disposition | Disposition<br>Date |
|---|-------------------------|------|------|-------------|---------------------|
|   |                         |      |      |             |                     |

**EVENTS**

| Date | Session | Event | Result | Resulting Judge |
|------|---------|-------|--------|-----------------|
|      |         |       |        |                 |

**FINANCIAL DETAILS**

| Date         | Fees/Fines/Costs  | Assessed      | Paid          | Dismissed   | Balance     |
|--------------|---|---------------|---------------|-------------|-------------|
| 11/13/2017   | Civil Filing Fee (per Plaintiff)<br>Receipt: 8589 Date: 11/13/2017  | 240.00        | 240.00        | 0.00        | 0.00        |
| 11/13/2017   | Civil Security Fee (G.L. c. 262, § 4A)<br>Receipt: 8589 Date: 11/13/2017  | 20.00         | 20.00         | 0.00        | 0.00        |
| 11/13/2017   | Civil Surcharge (G.L. c. 262, § 4C)<br>Receipt: 8589 Date: 11/13/2017   | 15.00         | 15.00         | 0.00        | 0.00        |
| 11/13/2017   | Fee for Blank Summons or Writ<br>(except Writ of Habeas Corpus) MGL<br>262 sec 4b Receipt: 8589 Date:<br>11/13/2017 | 10.00         | 10.00         | 0.00        | 0.00        |
| <b>Total</b> |   | <b>285.00</b> | <b>285.00</b> | <b>0.00</b> | <b>0.00</b> |


 PLYMOUTH COUNTY  
 Docket Report

| Deposit Account(s) Summary | Received | Applied | Checks Paid | Balance |
|----------------------------|----------|---------|-------------|---------|
| <b>Total</b>               |          |         |             |         |

**INFORMATIONAL DOCKET ENTRIES**

| Date       | Ref | Description  | Judge   |
|------------|-----|--|---|
| 11/13/2017 |     | Case assigned to:<br>DCM Track F - Fast Track was added on 11/13/2017  |   |
| 11/13/2017 | 1   | Original civil complaint filed.  |   |
| 11/13/2017 | 2   | Civil action cover sheet filed.  |   |
| 11/13/2017 |     | Attorney appearance<br>On this date Christopher Strang, Esq. added for Plaintiff Canoe Club Ballroom, Inc.   |   |
| 11/13/2017 |     | The following form was generated:<br><br>Tracking Order<br>Sent On: 11/13/2017 12:39:45  |   |
| 12/18/2017 | 3   | Service Returned for<br>Defendant Lowe's Home Centers, Inc.: Service through person in charge / agent;   |   |
| 12/18/2017 | 4   | Service Returned for<br>Defendant Trane U.S. Inc.: Service through person in charge / agent;   |   |
| 12/26/2017 | 5   | Amended: first amended complaint filed by Canoe Club Ballroom, Inc. to correct the name of defendant Lowe's Home Centers, Inc. to Lowe's Home Centers, LLC |   |
| 01/02/2018 | 6   | Notice of Removal to the United States District Court filed by<br><br>Applies To: Lowe's Home Centers, LLC (Defendant); Trane U.S. Inc. (Defendant)        | A TRUE COPY ATTEST<br><i>Barry Crowley Jr.</i><br>Clerk of Courts |
| 01/05/2018 |     | REMOVED to the U.S. District Court   |   |
| 01/05/2018 |     | Case transferred to another court.   |   |

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11/13/17

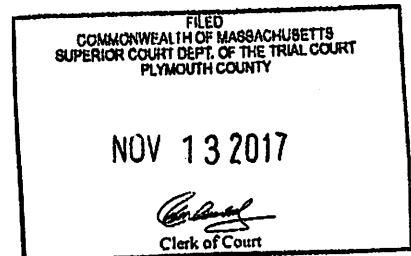
COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT DEPARTMENT  
DOCKET NO. 1783CV01181B

CANOE CLUB BALLROOM, INC., )  
Plaintiff, )  
v. )  
LOWE'S HOME CENTERS, INC. and )  
TRANE U.S. INC., )  
Defendant. )

COMPLAINT



**INTRODUCTION**

This is an action by an event venue for breach of contract, breach of settlement agreement, breach of warranty, misrepresentation and violation of M.G.L. ch. 93A against a supplier and a component supplier of a HVAC system purchased by, and installed in, the event venue located in West Bridgewater, Plymouth County, Massachusetts.

**PARTIES**

1. Plaintiff Canoe Club Ballroom, Inc. ("Canoe Club") is a domestic corporation with a principal place of office located at 2 South Street, West Bridgewater, Massachusetts 02379.
2. Defendant Lowe's Home Centers, Inc. ("Lowes") is a foreign corporation registered to do business in Massachusetts with a principal office located at 1605 Curtis Bridge Road, Wilkesboro, North Carolina 28697.
3. Defendant Trane U.S. Inc. ("Trane") is a foreign corporation registered to do business in Massachusetts with a principal office located at 800-E Beaty Street, Davidson, North Carolina 28036.

**JURISDICTION AND VENUE**

4. Jurisdiction is proper in this Court pursuant to M.G.L. c.212 §3.
5. Venue is proper in this Court as the dispute arises from the installation of a HVAC system on plaintiff's property located in Plymouth County.

## FACTS

6. Canoe Club realleges paragraphs 1-5.
7. Canoe Clubs is an event venue.
8. On or around November 30, 2012, Canoe Club entered into a sales contract with Lowes ("Contract") for Canoe Club to purchase a HVAC system ("Purchased System").
9. Per the Contract the Purchased System was composed of components manufactured by Trane.
10. The Purchased System was designed improperly and insufficiently for the purpose intended.
11. Lowes failed to provide an engineered Purchased System with stamped drawings.
12. As installed, the Purchased System never functioned properly.
13. As installed, the Purchased System did not comply with the existing as-built drawings.
14. As installed, the Purchased System did not comply with internal component instruction manuals.
15. As installed, the Purchased System did not comply with Massachusetts Mechanical Code.
16. Issues with the Purchased System include, but are not limited to, the following:
  - a. Inadequate thermostat controls that led to overheating in certain event spaces.
  - b. Inadequate zoning controls that led to overheating in certain event spaces.
  - c. Lack of wiring of airflow switches.
  - d. Inadequate refrigeration piping per internal component instruction manuals.

- e. Exposed suction line in the attic space that led to condensation drip and water damage.
- f. Incorrectly installed flue piping that lead to further water damage and premature rusting.
- g. Incorrectly installed evaporator coils.
- h. Lack of furnace drain protection from freeze conditions.
- i. Incorrectly installed emergency drain pans that lack both wet switches and float switches.
- j. Inadequate fresh air design that lacks enthalpy control.
- k. Inadequate and incorrect ductwork design and installation.

17. Canoe Club received multiple customer complaints related to the improper function of the Purchased System.

18. The Purchased System failed to perform its primary function of properly regulating the temperature throughout the Canoe Club's various event spaces leading to multiple complaints of overheated spaces and high indoor humidity.

19. Canoe Club, Lowes and Trane entered into discussions to attempt to remediate Canoe Club's issues with the Purchased System ("Settlement Agreement").

20. Lowes and Trane agreed to repair the Purchased System pursuant to the negotiated terms of the Settlement Agreement.

21. The negotiated terms of the Settlement Agreement included a 10-year parts and labor warranty ("Express Warranty") issued by Lowes and Trane for the benefit of Canoe Club relative to the Purchased System.

22. Lowes and Trane have thus far refused to repair the Purchased System.

23. Lowes and Trane have not honored the Warranty.

**COUNT ONE- BREACH OF CONTRACT  
(Lowes)**

24. Canoe Club realleges paragraphs 1-23.

25. Canoe Club entered into the Contract with Lowes.

26. Lowes materially breached the Contract.

27. Lowes' material breaches caused Canoe Club to suffer damages in excess of \$25,000.00.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendant Lowes Home Centers, Inc. for damages and costs stemming from Defendant's breach of contract.

**COUNT TWO- BREACH OF SETTLEMENT AGREEMENT  
(Lowes and Trane)**

28. Canoe Club realleges paragraphs 1-27.

29. Canoe Club entered into the Settlement Agreement with Lowes and Trane.

30. Lowes and Trane materially breached the Settlement Agreement.

31. Lowes and Trane's material breaches caused Canoe Club to suffer damages in excess of \$25,000.00.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, Inc. and Trane U.S. Inc., for damages and costs stemming from Defendants' breach of settlement agreement.

**COUNT THREE- BREACH OF EXPRESS WARRANTY  
(Lowes and Trane)**

32. Canoe Club realleges paragraphs 1-31.

33. Lowes and Trane issued an Express Warranty for the benefit of Canoe Club.

34. Lowes and Trane materially breached the Express Warranty.

35. Lowes and Trane's material breaches caused Canoe Club to suffer damages.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, Inc. and Trane U.S. Inc., for damages and costs stemming from Defendant's' breach of express warranty.

**COUNT FOUR- INTENTIONAL MISREPRESENTATION  
(Lowes)**

36. Canoe Club realleges paragraphs 1 through 35.
37. Lowes supplied materially false information for the guidance of Canoe Club regarding the Purchased System, specifically, that the Purchased System would be an engineered system with stamped drawings.
38. Lowes failed to provide an engineered Purchased System with stamped drawings.
39. Lowes was aware that the Purchased System was not an engineered system.
40. Canoe Club justifiably relied on the materially false information supplied by Lowes when entering into the Contract.
41. Canoe Club was harmed, as the Purchased System has never functioned properly as it was not an engineered system.
42. Canoe Club incurred damages due to justifiably relying on the materially false information provided by Lowes.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendant Lowes Home Centers, Inc. for damages and costs stemming from Defendant's intentional misrepresentation.

**COUNT FIVE- VIOLATION OF G.L. c. 93A.  
UNFAIR OR DECEPTIVE TRADE PRACTICES  
(Lowes and Trane)**

43. Canoe Club realleges paragraphs 1 through 42.
44. Canoe Club is a business for the purpose of G.L. c. 93A, § 11.

45. At all times relevant to this action, Lowes and Trane were engaged in trade or commerce within the Commonwealth of Massachusetts and the facts giving rise to the present action arose from such trade or commerce.
46. Lowes knowingly and willfully engaged in actions that were unfair and deceptive as alleged in paragraphs 10-16, 19-23, 29-30, and 37-39.
47. Lowes' unfair and deceptive actions caused Canoe Club to suffer pecuniary damages.
48. Lowes' actions as detailed above are breaches of the covenant of good faith and fair dealing, and constitute knowing and willful violations of M.G.L. c. 93A.
49. Trane knowingly and willfully engaged in actions that were unfair and deceptive as alleged in paragraphs 19-23, and 29-30.
50. Trane's unfair and deceptive actions caused Canoe Club to suffer pecuniary damages.
51. Trane's actions as detailed above are breaches of the covenant of good faith and fair dealing, and constitute knowing and willful violations of M.G.L. c. 93A.
52. All conditions precedent to the maintenance of this action have been performed.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, Inc. and Trane U.S. Inc., for three times its actual damages, plus interest, costs and attorneys' fees as provided by G.L. c. 93A, §§ 2 and 11.

Respectfully submitted,

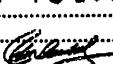
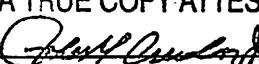
Plaintiff  
CANOE CLUB BALLROOM, INC.,  
By its attorneys:

Christopher D. Strang, BBO No. 664742  
cstrang@strangscott.com  
Andrea N. Jacobs, BBO No. 693754  
ajacobs@strangscott.com  
STRANG, SCOTT, GIROUX & YOUNG, LLP  
654 Beacon Street, 6th Floor  
Boston, MA 02215  
(857) 233-5534

Dated: November 10, 2017

A TRUE COPY ATTEST  
*Robert Cudlipp*  
Clerk of Courts

2

|  |   |   |  |  |
|--|---|---|--|--|
| <b>CIVIL ACTION COVER SHEET</b>  |   | DOCKET NUMBER<br><b>1783CV01181B</b>                              | <b>Trial Court of Massachusetts<br/>The Superior Court</b>   |  |
| PLAINTIFF(S):<br>Canoe Club Ballroom, Inc  |   | COUNTY<br>Plymouth  |  |  |
| ADDRESS:<br>2 South Street, West Bridgewater, MA 02379   |   | DEFENDANT(S):<br>Lowe's Home Centers, Inc.<br><br>Trane U.S. Inc. |  |  |
| ATTORNEY:<br>Christopher D. Strang, Andrea N. Jacobs   |   | ADDRESS:<br>Lowe's: 1605 Curtis Bridge Road, Wikesboro, NC 28697  |  |  |
| ADDRESS:<br>Strang, Scott, Giroux & Young<br><br>654 Beacon Street, 6th Floor<br><br>Boston, MA 02215  |   | ADDRESS:<br>Trane: 800-E Beaty Street, Davidson, NC 28036         |  |  |
| BBO:<br>Strang: 664742 Jacobs: 693754  |   | TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)           |  |  |
| CODE NO.<br>A01, A02, BE1  | TYPE OF ACTION (specify)<br>Labor, Materials, Goods Sold, Business Tort | TRACK<br>A  | HAS A JURY CLAIM BEEN MADE?<br><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO |  |
| *If "Other" please describe: _____   |   |   |  |  |
| <b>STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A</b>  |   |   |  |  |
| The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.  |   |   |  |  |
| <b>TORT CLAIMS</b><br><small>(attach additional sheets as necessary)</small> <div style="border: 1px solid black; padding: 5px; display: inline-block;"> <small>COMMONWEALTH OF MASSACHUSETTS<br/>SUPERIOR COURT DEPT. OF THE TRIAL COURT<br/>PLYMOUTH COUNTY</small><br/> <b>NOV. 13 2017</b><br/> <br/> <b>Clerk of Court</b><br/> <b>Subtotal (A):</b> _____         </div> |   |   |  |  |
| A. Documented medical expenses to date:<br>1. Total hospital expenses ..... \$ _____<br>2. Total doctor expenses ..... \$ _____<br>3. Total chiropractic expenses ..... \$ _____<br>4. Total physical therapy expenses ..... \$ _____<br>5. Total other expenses (describe below) ..... \$ _____   |   |   |  |  |
| B. Documented lost wages and compensation to date ..... \$ _____<br>C. Documented property damages to date ..... \$ _____<br>D. Reasonably anticipated future medical and hospital expenses ..... \$ _____<br>E. Reasonably anticipated lost wages ..... \$ _____<br>F. Other documented items of damages (describe below) ..... \$ _____  |   |   |  |  |
| Canoe Club incurred additional cost due to relying on Lowe's insufficient reps regarding the Purchased System and breach of _____  |   |   |  |  |
| G. Briefly describe plaintiff's injury, including the nature and extent of injury:<br>This is an action by a venue for intentional misrepresentation breach of settlement agreement and violation of G.L. c. 93A<br>against a supplier and component supplier of an HVAC system installed in West Bridgewater, Plymouth County.  |   |   |  |  |
| <b>TOTAL (A-F):\$</b> <b>25,000+</b>   |   |   |  |  |
| <b>CONTRACT CLAIMS</b><br><small>(attach additional sheets as necessary)</small>   |   |   |  |  |
| Provide a detailed description of claims(s):<br>This is an action by a venue for breach of contract, breach of settlement agreement, breach of warranty against a<br>supplier and component supplier of an HVAC system installed in West Bridgewater, Plymouth County.   |   |   |  |  |
| <b>TOTAL: \$</b> <b>25,000+</b>  |   |   |  |  |
| Signature of Attorney/Pro Se Plaintiff: <b>X</b> <span style="float: right;">Date: Nov 10, 2017</span>   |   |   |  |  |
| <b>RELATED ACTIONS:</b> Please provide the case number, case name, and county of any related actions pending in the Superior Court.  |   |   |  |  |
| <b>CERTIFICATION PURSUANT TO SJC RULE 1:18</b><br>I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.  |   |   |  |  |
| Signature of Attorney of Record: <b>X</b> <span style="float: right;">Date: Nov 10, 2017</span>  |   |   |  |  |
| <b>A TRUE COPY ATTEST</b><br><br><b>Clerk of Courts</b>  |   |   |  |  |

|  |                                     |  |
|--|-------------------------------------|--|
| <b>CIVIL TRACKING ORDER<br/>(STANDING ORDER 1-88)</b>                        | DOCKET NUMBER<br><b>1783CV01181</b> | <b>Trial Court of Massachusetts<br/>The Superior Court</b>   |
| CASE NAME:<br><b>Canoe Club Ballroom, Inc. vs. Lowe's Home Centers, Inc.</b> |                                     | Robert S. Creedon, Jr., Clerk of Courts  |
| TO: <b>File Copy</b>   |                                     | COURT NAME & ADDRESS<br><b>Plymouth County Superior Court - Plymouth<br/>52 Obery Street - Suite 2041<br/>Plymouth, MA 02360</b> |

**TRACKING ORDER - F - Fast Track**

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

**STAGES OF LITIGATION****DEADLINE**

|  | SERVED BY  | FILED BY   | HEARD BY   |
|--|------------|------------|------------|
| Service of process made and return filed with the Court                            |            | 02/12/2018 |            |
| Response to the complaint filed (also see MRCP 12)                                 |            | 03/13/2018 |            |
| All motions under MRCP 12, 19, and 20  | 03/13/2018 | 04/12/2018 | 05/14/2018 |
| All motions under MRCP 15  | 03/13/2018 | 04/12/2018 | 05/14/2018 |
| All discovery requests and depositions served and non-expert depositions completed | 09/10/2018 |            |            |
| All motions under MRCP 56  | 10/09/2018 | 11/08/2018 |            |
| Final pre-trial conference held and/or firm trial date set                         |            |            | 03/08/2019 |
| Case shall be resolved and judgment shall issue by                                 |            |            | 11/13/2019 |

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time. Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service. This case is assigned to

|                                  |                 |       |
|----------------------------------|-----------------|-------|
| DATE ISSUED<br><b>11/13/2017</b> | ASSISTANT CLERK | PHONE |
|----------------------------------|-----------------|-------|

12/18/17

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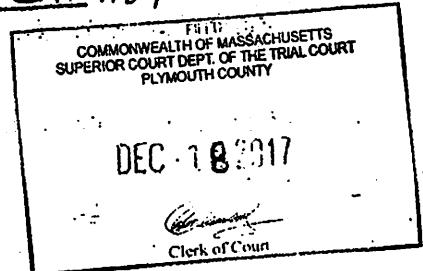
## Commonwealth of Massachusetts

TRIAL COURT OF THE COMMONWEALTH

SUPERIOR COURT DEPARTMENT

CIVIL DOCKET NO. 1783-CV-01181

PLYMOUTH, ss.

Canoe Club Ballroom, Inc., PLAINTIFF(S),v. Lowes Home Centers, Inc.  
And Trane U.S. Inc. DEFENDANT(S)

## SUMMONS

THIS SUMMONS IS DIRECTED TO Lowes Home Centers, Inc. (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Plymouth County Superior Court. COURT. YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.

1. You must respond to this lawsuit in writing within 20 days. If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. If you need more time to respond, you may request an extension of time in writing from the Court.

2. How to Respond. To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:

a. Filing your signed original response with the Clerk's Office for Civil Business, Plymouth Superior Court, 52 Oberry Street, Suite 2041, Plymouth, MA 02360, by mail or in person, AND

b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: Andrea Jacobs, Esq., Strong Scott, Groves & Young LLP, 654 Beacon St., 6th Floor Boston, MA 02115

3. What to include in your response. An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as counterclaims) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must specifically request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under Mass. R. Civ. P. 12. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at [www.mass.gov/courts/case-legal-res/rules-of-court](http://www.mass.gov/courts/case-legal-res/rules-of-court).

12-18-17

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## Commonwealth of Massachusetts

TRIAL COURT OF THE COMMONWEALTH

SUPERIOR COURT DEPARTMENT

CIVIL DOCKET NO. 1783-CV-0118

PLYMOUTH, ss.

FILED  
COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPT. OF THE TRIAL COURT  
PLYMOUTH COUNTY

Canoe Club Ballroom Inc PLAINTIFF(S),

v. Lowes Home Centers Inc.

And TRANE U.S. Inc. DEFENDANT(S)

DEC 18 2011

  
Clerk of Court

## SUMMONS

THIS SUMMONS IS DIRECTED TO Trane U.S. Inc. (Defendant's name)You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Plymouth County Superior Court Court. YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.

1. **You must respond to this lawsuit in writing within 20 days.** If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. If you need more time to respond, you may request an extension of time in writing from the Court.

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a. Filing your signed original response with the Clerk's Office for Civil Business, Plymouth Superior Court, 52 Oberry Street, Suite 2041, Plymouth, MA 02360, by mail or in person, AND

b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: Andrea Jacobs, Esq., Straub, Scott, Gravitt & Yang, LLP 654 Beacon St 10th Floor Boston, MA 02115

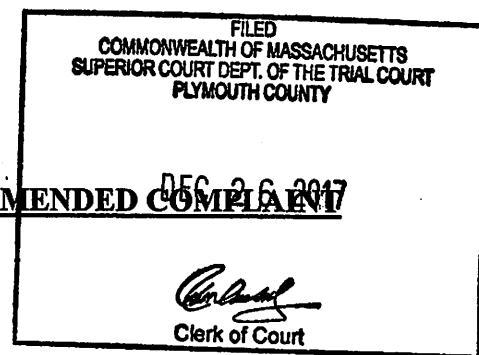
3. **What to include in your response.** An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as counterclaims) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must specifically request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under Mass. R. Civ. P. 12. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at [www.mass.gov/courts/case-legal-res/rules-of-court](http://www.mass.gov/courts/case-legal-res/rules-of-court).

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT DEPARTMENT  
DOCKET NO. 1783CV01181

CANOE CLUB BALLROOM, INC.,  
Plaintiff,  
v.  
LOWE'S HOME CENTERS, LLC and  
TRANE U.S. INC.,  
Defendant.



INTRODUCTION

This is an action by an event venue for breach of contract, breach of settlement agreement, breach of warranty, misrepresentation and violation of M.G.L. ch. 93A against a supplier and a component supplier of a HVAC system purchased by, and installed in, the event venue located in West Bridgewater, Plymouth County, Massachusetts.

PARTIES

1. Plaintiff Canoe Club Ballroom, Inc. ("Canoe Club") is a domestic corporation with a principal place of office located at 2 South Street, West Bridgewater, Massachusetts 02379.
2. Defendant Lowe's Home Centers, LLC ("Lowes") is a foreign limited liability company registered to do business in Massachusetts with a principal office located at 1605 Curtis Bridge Road, Wilkesboro, North Carolina 28697.
3. Defendant Trane U.S. Inc. ("Trane") is a foreign corporation registered to do business in Massachusetts with a principal office located at 800-E Beaty Street, Davidson, North Carolina 28036.

JURISDICTION AND VENUE

4. Jurisdiction is proper in this Court pursuant to M.G.L. c.212 §3.
5. Venue is proper in this Court as the dispute arises from the installation of a HVAC system on plaintiff's property located in Plymouth County.

## FACTS

6. Canoe Club realleges paragraphs 1-5.
7. Canoe Clubs is an event venue.
8. On or around November 30, 2012, Canoe Club entered into a sales contract with Lowes ("Contract") for Canoe Club to purchase a HVAC system ("Purchased System").
9. Per the Contract the Purchased System was composed of components manufactured by Trane.
10. The Purchased System was designed improperly and insufficiently for the purpose intended.
11. Lowes failed to provide an engineered Purchased System with stamped drawings.
12. As installed, the Purchased System never functioned properly.
13. As installed, the Purchased System did not comply with the existing as-built drawings.
14. As installed, the Purchased System did not comply with internal component instruction manuals.
15. As installed, the Purchased System did not comply with Massachusetts Mechanical Code.
16. Issues with the Purchased System include, but are not limited to, the following:
  - a. Inadequate thermostat controls that led to overheating in certain event spaces.
  - b. Inadequate zoning controls that led to overheating in certain event spaces.
  - c. Lack of wiring of airflow switches.
  - d. Inadequate refrigeration piping per internal component instruction manuals.

- e. Exposed suction line in the attic space that led to condensation drip and water damage.
- f. Incorrectly installed flue piping that lead to further water damage and premature rusting.
- g. Incorrectly installed evaporator coils.
- h. Lack of furnace drain protection from freeze conditions.
- i. Incorrectly installed emergency drain pans that lack both wet switches and float switches.
- j. Inadequate fresh air design that lacks enthalpy control.
- k. Inadequate and incorrect ductwork design and installation.

17. Canoe Club received multiple customer complaints related to the improper function of the Purchased System.

18. The Purchased System failed to perform its primary function of properly regulating the temperature throughout the Canoe Club's various event spaces leading to multiple complaints of overheated spaces and high indoor humidity.

19. Canoe Club, Lowes and Trane entered into discussions to attempt to remediate Canoe Club's issues with the Purchased System ("Settlement Agreement").

20. Lowes and Trane agreed to repair the Purchased System pursuant to the negotiated terms of the Settlement Agreement.

21. The negotiated terms of the Settlement Agreement included a 10-year parts and labor warranty ("Express Warranty") issued by Lowes and Trane for the benefit of Canoe Club relative to the Purchased System.

22. Lowes and Trane have thus far refused to repair the Purchased System.

23. Lowes and Trane have not honored the Warranty.

**COUNT ONE- BREACH OF CONTRACT  
(Lowes)**

24. Canoe Club realleges paragraphs 1-23.

25. Canoe Club entered into the Contract with Lowes.

26. Lowes materially breached the Contract.

27. Lowes' material breaches caused Canoe Club to suffer damages in excess of \$25,000.00.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendant Lowes Home Centers, LLC for damages and costs stemming from Defendant's breach of contract.

**COUNT TWO- BREACH OF SETTLEMENT AGREEMENT  
(Lowes and Trane)**

28. Canoe Club realleges paragraphs 1-27.

29. Canoe Club entered into the Settlement Agreement with Lowes and Trane.

30. Lowes and Trane materially breached the Settlement Agreement.

31. Lowes and Trane's material breaches caused Canoe Club to suffer damages in excess of \$25,000.00.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, LLC and Trane U.S. Inc., for damages and costs stemming from Defendants' breach of settlement agreement.

**COUNT THREE- BREACH OF EXPRESS WARRANTY  
(Lowes and Trane)**

32. Canoe Club realleges paragraphs 1-31.

33. Lowes and Trane issued an Express Warranty for the benefit of Canoe Club.

34. Lowes and Trane materially breached the Express Warranty.

35. Lowes and Trane's material breaches caused Canoe Club to suffer damages.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, LLC and Trane U.S. Inc., for damages and costs stemming from Defendant's breach of express warranty.

**COUNT FOUR- INTENTIONAL MISREPRESENTATION  
(Lowes)**

36. Canoe Club realleges paragraphs 1 through 35.
37. Lowes supplied materially false information for the guidance of Canoe Club regarding the Purchased System, specifically, that the Purchased System would be an engineered system with stamped drawings.
38. Lowes failed to provide an engineered Purchased System with stamped drawings.
39. Lowes was aware that the Purchased System was not an engineered system.
40. Canoe Club justifiably relied on the materially false information supplied by Lowes when entering into the Contract.
41. Canoe Club was harmed, as the Purchased System has never functioned properly as it was not an engineered system.
42. Canoe Club incurred damages due to justifiably relying on the materially false information provided by Lowes.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendant Lowes Home Centers, LLC for damages and costs stemming from Defendant's intentional misrepresentation.

**COUNT FIVE- VIOLATION OF G.L. c. 93A.  
UNFAIR OR DECEPTIVE TRADE PRACTICES  
(Lowes and Trane)**

43. Canoe Club realleges paragraphs 1 through 42.
44. Canoe Club is a business for the purpose of G.L. c. 93A, § 11.

45. At all times relevant to this action, Lowes and Trane were engaged in trade or commerce within the Commonwealth of Massachusetts and the facts giving rise to the present action arose from such trade or commerce.
46. Lowes knowingly and willfully engaged in actions that were unfair and deceptive as alleged in paragraphs 10-16, 19-23, 29-30, and 37-39.
47. Lowes' unfair and deceptive actions caused Canoe Club to suffer pecuniary damages.
48. Lowes' actions as detailed above are breaches of the covenant of good faith and fair dealing, and constitute knowing and willful violations of M.G.L. c. 93A.
49. Trane knowingly and willfully engaged in actions that were unfair and deceptive as alleged in paragraphs 19-23, and 29-30.
50. Trane's unfair and deceptive actions caused Canoe Club to suffer pecuniary damages.
51. Trane's actions as detailed above are breaches of the covenant of good faith and fair dealing, and constitute knowing and willful violations of M.G.L. c. 93A.
52. All conditions precedent to the maintenance of this action have been performed.

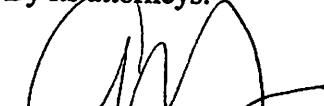
WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, LLC and Trane U.S. Inc., for three times its actual damages, plus interest, costs and attorneys' fees as provided by G.L. c. 93A, §§ 2 and 11.

Respectfully submitted,

Plaintiff

CANOE CLUB BALLROOM, INC.,

By its attorneys:

  
Christopher D. Strang, BBO No. 664742  
cstrang@strangscott.com

Andrea N. Jacobs, BBO No. 693754  
ajacobs@strangscott.com

STRANG, SCOTT, GIROUX & YOUNG, LLP  
654 Beacon Street, 6th Floor  
Boston, MA 02215  
(857) 233-5534

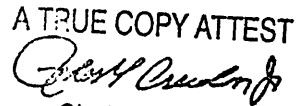
Dated: December 22, 2017

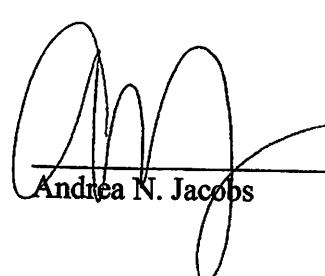
**CERTIFICATE OF SERVICE**

I, Andrea N. Jacobs, hereby certify that on this 22 day of Dec 2017, I caused a true copy of the foregoing to be delivered to the following via First Class Mail, postage prepaid:

Lowes Home Centers, LLC  
Corporation Service Company,  
84 State Street  
Boston, MA 02109

Train U.S., Inc.  
Corporation Service Company,  
84 State Street  
Boston, MA 02109

A TRUE COPY ATTEST  
  
Clerk of Courts

  
Andrea N. Jacobs

1-2x8

## COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT DEPT.  
C.A. No.: 1783CV01181CANOE CLUB BALLROOM, INC.,  
Plaintiff

v.

LOWE'S HOME CENTERS, INC., and  
TRANE U.S., INC.,  
DefendantsFILED  
COMMONWEALTH OF MASSACHUSETTS  
SUPERIOR COURT DEPT. OF THE TRIAL COURT  
PLYMOUTH COUNTY

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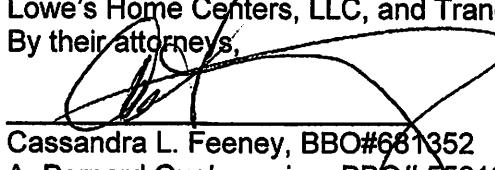
  
Clerk of Court**NOTICE OF FILING OF REMOVAL TO THE UNITED STATES DISTRICT COURT**

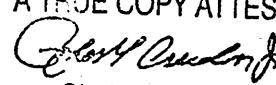
To the Clerk of the Superior Court, Plymouth County, 52 Obery St., Plymouth, MA 02630:

Notice is hereby given that this case has been removed to the United States District Court for the District of Massachusetts on the 22 day of December, 2017 by the Defendants, Lowe's Home Centers, LLC, improperly denominated as "Lowe's Home Centers, Inc.", and Trane U.S., Inc. A copy of the Notice of Removal to Federal Court is attached hereto as **Exhibit**

A. You are advised to take no further action on this matter.

Respectfully submitted,  
The Defendants,  
Lowe's Home Centers, LLC, and Trane U.S., Inc.,  
By their attorneys,

  
Cassandra L. Feeney, BBO#681352  
A. Bernard Guekguezian, BBO# 559191  
Adler | Cohen | Harvey | Wakeman | Guekguezian, LLP  
75 Federal Street, 10<sup>th</sup> Floor  
Boston, MA 02110  
(617) 423-6674  
[cfeeney@adlercohen.com](mailto:cfeeney@adlercohen.com)  
[bguekguezian@adlercohen.com](mailto:bguekguezian@adlercohen.com)

A TRUE COPY ATTEST  
  
Clerk of Courts

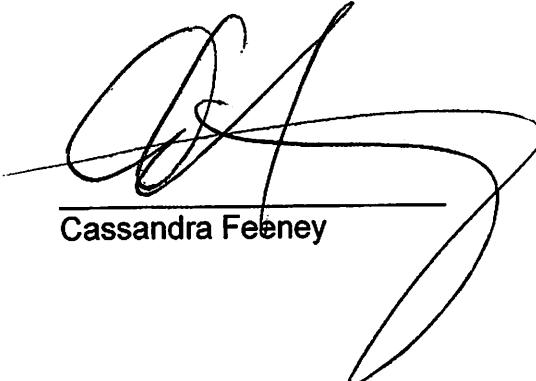
**CERTIFICATE OF SERVICE**

I, Cassandra L. Feeney, attorney for the defendants, Trane US Inc., f/k/a American Standard Inc., hereby certify that on December 22, 2017, I served a copy of the following:

1. Notice of Filing of Removal to the United States District Court

by mailing same, postage prepaid to:

Christopher D. Strang, Esq.  
Andrea N. Jacobs, Esq.  
STRANG, SCOTT, GIROUX & YOUNG, LLP  
654 Beacon Street – 6<sup>th</sup> floor  
Boston, MA 02215

  
\_\_\_\_\_  
Cassandra Feeney

# **EXHIBIT A**

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Canoe Club Ballroom, Inc. v. Lowe's Home Centers, Inc.

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

I. 410, 441, 470, 535, 830\*, 835\*, 891, 893, 895, R.23, REGARDLESS OF NATURE OF SUIT.

II. 110, 130, 140, 160, 190, 198, 230, 240, 290, 320, 362, 370, 371, 380, 430, 440, 442, 443, 445, 446, 448, 710, 720, 740, 780, 820\*, 840\*, 850, 870, 871.

III. 120, 150, 151, 152, 153, 195, 210, 220, 245, 310, 315, 330, 340, 345, 350, 355, 360, 365, 367, 368, 375, 376, 385, 400, 422, 423, 450, 460, 462, 463, 465, 480, 490, 510, 530, 540, 550, 555, 625, 690, 751, 791, 861-865, 890, 896, 899, 950.

\*Also complete AO 120 or AO 121, for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES  NO

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES  NO

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES  NO

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES  NO

7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).

YES  NO

A. If yes, in which division do all of the non-governmental parties reside?

Eastern Division  Central Division  Western Division

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division  Central Division  Western Division

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES  NO

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Cassandra L. Feeney

ADDRESS Adler Cohen Harvey Wakeman & Guekguezian, LLP, 75 Federal Street, Boston, MA 02110

TELEPHONE NO. 617-423-6674

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

-----X  
CANOE CLUB BALLROOM, INC.,  
Plaintiff,

v. Civil Action No.  
(Plymouth Superior Court No.  
1783CV01181)

LOWE'S HOME CENTERS, INC. and  
TRANE U.S. INC.,  
Defendants.

-----X

**NOTICE OF REMOVAL BY DEFENDANTS**

Defendants Lowe's Home Centers, LLC, improperly denominated as "Lowe's Home Centers, Inc." and Trane U.S. Inc., (collectively, the "Defendants") give notice of the removal of this action from the Superior Court for Plymouth County in the Commonwealth of Massachusetts to the United States District Court for the District of Massachusetts, pursuant to 28 U.S.C. §§ 1441 and 1446. As grounds for removal, the Defendants state the following:

**INTRODUCTION**

1. On or about November 13, 2017, Plaintiff filed this product liability action, entitled Canoe Club Ballroom, Inc. v. Lowe's Home Centers, Inc. and Trane U.S., Inc., Civil Action No. 1783CV01181, in the Superior Court of Plymouth, Commonwealth of Massachusetts.

2. The Plaintiff served Defendant Lowe's with Plaintiff's Summons and Complaint on December 8, 2017. See Summons and Complaint attached hereto as Exhibit A. The Complaint includes allegations of breach of contract, breach of settlement agreement, breach of

express warranty, intentional misrepresentation, and unfair or deceptive trade practices in connection with an HVAC system. Trane has not been served to date.

3. This Court has jurisdiction over this case pursuant to 28 U.S.C. § 1332(a) on the basis of diversity of citizenship and amount in controversy.

4. This case is removable pursuant to 28 U.S.C. § 1441(b).

5. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings, orders, and other papers or exhibits filed in state court or otherwise provided to the Defendants are attached hereto as **Exhibit A**.

**DIVERSITY OF CITIZENSHIP**

6. The plaintiff, Canoe Club Ballroom, Inc. ("plaintiff" or "Canoe Club") is a domestic corporation with a principal place of business at 2 South Street, West Bridgewater, Massachusetts, 02379. Thus, Canoe Club is a citizen of Massachusetts.

7. The defendant, Lowe's Home Centers, LLC, improperly denominated as "Lowe's Home Centers, Inc."n ("Lowe's") is a foreign corporation, incorporated in North Carolina with a principle place of business in North Carolina. Thus, Lowe's is a citizen of North Carolina.

8. The defendant, Trane U.S. Inc. ("Trane") is a foreign corporation, incorporated in North Carolina with a principle place of business in North Carolina. Thus, Trane is a citizen of North Carolina.

9. None of the parties in interest served as a Defendant is a citizen of the Commonwealth of Massachusetts. Therefore, complete diversity exists between all the parties.

**AMOUNT IN CONTROVERSY**

10. The allegations set forth in the Complaint establish that the amount in controversy in this case exceeds \$75,000 exclusive of interest and costs.

11. The plaintiff seeks damages for breach of contract, breach of settlement agreement, breach of express warranty, and intentional misrepresentation in connection with an HVAC system. Specifically, the plaintiff seeks damages “in excess of \$25,000” for the alleged breach of contract and breach of settlement agreement. The plaintiff also seeks additional damages for the alleged breach of express warranty and intentional misrepresentation. Further, the plaintiff seeks entitlement to treble damages, as well as interest, costs, and attorney’s fees under Massachusetts Consumer Protection Statute. Spielman v. Genzyme Corp., 251 F.3d 1, 7 (1st Cir. 2001) (where the Court included attorney’s fees sought under Chapter 93A of the Massachusetts Consumer Protection Act in determining the amount-in-controversy for diversity jurisdiction); Raymond v. Lane Const. Corp., 527 F. Supp. 2d 156, 164 (D. Me. 2007) (“Given that even one extra dollar of attorney’s fees would place [plaintiff] over the \$75,000 threshold, it is a ‘legal certainty’ that her amount in controversy will meet the statutory requirement.”). Thus, it is clear that the amount of damages the plaintiff seeks—“damages in excess of \$25,000” for the alleged breach of contract and breach of settlement agreement, which would become more than \$75,000 after the statutory trebling and attorneys fees, as well as damages alleged for breach of express warranty and intentional misrepresentation—is more than the jurisdictional amount-in-controversy requirement.

**OTHER REQUIREMENTS FOR REMOVAL**

12. Lowe’s was served with the Complaint on December 8, 2017. Trane has not been served to date. Thus, this Notice of Removal is being timely filed within the thirty (30) days of service of initial pleadings.

13. Venue is proper in this Court pursuant to 28 U.S.C. § 1441(a) and 1446(a) because the U.S. District Court for the District of Massachusetts is the federal judicial district embracing the Superior Court for Plymouth County in the Commonwealth of Massachusetts where the State Court Action was originally filed.

14. Written notice of the filing of the Notice of Removal will be served on Plaintiff's counsel and filed with the Plymouth Superior Court, pursuant to 28 U.S.C. § 1446(d). A copy of the Notice of Filing of Notice of Removal to the United States District Court is attached hereto as **Exhibit B**.

15. As of December 22, 2017, there are no pending motions in this matter.

16. All Defendants are represented by the undersigned and join in this Notice of Removal.

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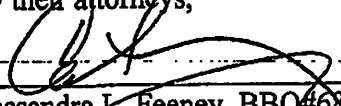
**CONCLUSION**

WHEREFORE, the Defendants jointly request that the above-entitled matter currently pending in the Plymouth County Superior Court in the Commonwealth of Massachusetts be removed to the United States District Court for the District of Massachusetts.

By this Notice of Removal, the Defendants do not waive any objections they may have as to service, jurisdiction or venue, or any other defenses or objections they may have to this action. The Defendants intend no admission of fact, law or liability by this Notice, and expressly reserve all defenses, motions and/or pleas.

Respectfully submitted,

The Defendants,  
Lowe's Home Centers, LLC, and  
Trane U.S. Inc.,  
By their attorneys,

  
Cassandra L. Feeney, BBO#681352  
A. Bernard Guekguezian, BBO# 559191  
Adler | Cohen | Harvey | Wakeman | Guekguezian, LLP  
75 Federal Street, 10th Floor  
Boston, MA 02110  
(617) 423-6674  
[cfeeney@adlercohen.com](mailto:cfeeney@adlercohen.com)  
[bguekguezian@adlercohen.com](mailto:bguekguezian@adlercohen.com)

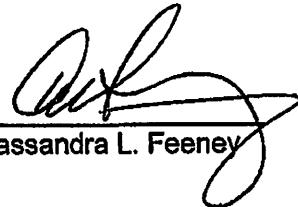
Dated: 12/22/17

**CERTIFICATE OF SERVICE**

I do hereby certify that on December 22, 2017, this document was filed with ECF system to be electronically served upon all registered participants as identified on the Notice of Electronic Filing and paper copies will be sent those registered as non-participants.

12/22/17

Date

  
Cassandra L. Feeney

# EXHIBIT A

Commonwealth of Massachusetts

PLYMOUTH, ss:

TRIAL COURT OF THE COMMONWEALTH

SUPERIOR COURT DEPARTMENT

CIVIL DOCKET NO. 1783-CV-01181

Canoe Club Ballroom, Inc., PLAINTIFF(S),

v. Lowes Home Centers, Inc.  
and Trane U.S. Inc. DEFENDANT(S)

SUMMONS

THIS SUMMONS IS DIRECTED TO Lowes Home Centers, Inc. (Defendant's name)

You are being sued. The Plaintiff(s) named above has started a lawsuit against you. A copy of the Plaintiff's Complaint filed against you is attached to this summons and the original complaint has been filed in the Plymouth County Superior Court Court. YOU MUST ACT PROMPTLY TO PROTECT YOUR RIGHTS.

1. You must respond to this lawsuit in writing within 20 days. If you do not respond, the court may decide the case against you and award the Plaintiff everything asked for in the complaint. You will also lose the opportunity to tell your side of the story. You must respond to this lawsuit in writing even if you expect to resolve this matter with the Plaintiff. If you need more time to respond, you may request an extension of time in writing from the Court.

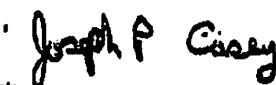
2. How to Respond. To respond to this lawsuit, you must file a written response with the court and mail a copy to the Plaintiff's Attorney (or the Plaintiff, if unrepresented). You can do this by:

a. Filing your signed original response with the Clerk's Office for Civil Business, Plymouth Superior Court, 52 Oberry Street, Suite 2041, Plymouth, MA 02360, by mail or in person, AND

b. Delivering or mailing a copy of your response to the Plaintiff's Attorney/Plaintiff at the following address: Andrea Jacobs Esq., Strong Scott, Graven & Young, LLP, 654 Beacon Street, Boston, MA 02155

3. What to include in your response. An "Answer" is one type of response to a Complaint. Your Answer must state whether you agree or disagree with the fact(s) alleged in each paragraph of the Complaint. Some defenses, called affirmative defenses, must be stated in your Answer or you may lose your right to use them in court. If you have any claims against the Plaintiff (referred to as counterclaims) that are based on the same facts or transaction described in the Complaint, then you must include those claims in your Answer. Otherwise, you may lose your right to sue the Plaintiff about anything related to this lawsuit. If you want to have your case heard by a jury, you must specifically request a jury trial in your Answer or in a written demand for a jury trial that you must send to the other side and file with the court no more than 10 days after sending your Answer. You can also respond to a Complaint by filing a "Motion to Dismiss," if you believe that the complaint is legally invalid or legally insufficient. A Motion to Dismiss must be based on one of the legal deficiencies or reasons listed under Mass. R. Civ. P. 12. If you are filing a Motion to Dismiss, you must also comply with the filing procedures for "Civil Motions" described in the rules of the Court in which the complaint was filed, available at [www.mass.gov/courts/case-legal-res/rules-of-court](http://www.mass.gov/courts/case-legal-res/rules-of-court).

A true copy Attest:

  
Deputy Sheriff Suffolk County

12-8-17

**4. Legal Assistance.** You may wish to get legal help from a lawyer. If you cannot get legal help, some basic information for people who represent themselves is available at [www.mass.gov/courts/sephelp](http://www.mass.gov/courts/sephelp).

5. Required information on all filings: The "civil docket number" appearing at the top of this notice is the case number assigned to this case and must appear on the front of your Answer or Motion to Dismiss. You should refer to yourself as the "Defendant."

Witness Hon. Judith Fabricant, Chief Justice on November 17, 2017.

**Clerk of Court's**

**Note: The number assigned to the Complaint by the Clerk-Magistrate at the beginning of the lawsuit should be indicated on the summons before it is served on the Defendant.**

## PROOF OF SERVICE OF PROCESS

I hereby certify that on 20, I served a copy of this summons, together with a copy of the complaint in this action, on the defendant named in this summons, in the following manner (See Mass. R. Civ. P. 4 (d)(1-5)).

Dated: 10/20/2011 Signature: John Doe

**N.B. TO PROCESS SERVER:**

PLEASE ENTER THE DATE THAT YOU MADE SERVICE ON THE DEFENDANT IN THIS BOX - BOTH ON THE ORIGINAL SUMMONS AND ON THE COPY OF THE SUMMONS SERVED ON THE DEFENDANT.

This image shows a very faint, rectangular document page with illegible text. The text is too faded to be read accurately, but it appears to be a formal record or certificate. The layout includes a header section with a title, followed by several paragraphs of descriptive text, and a footer section with a date and a signature. The entire document is rendered in a light gray or white color, making it difficult to discern specific words or details.

1701962

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT DEPARTMENT  
DOCKET NO.

CANOE CLUB BALLROOM, INC.,  
Plaintiff

v.  
LOWE'S HOME CENTERS, INC. and  
TRANE U.S. INC.,  
Defendant

COMPLAINT

INTRODUCTION

This is an action by an event venue for breach of contract, breach of settlement agreement, breach of warranty, misrepresentation and violation of M.G.L. ch. 93A against a supplier and a component supplier of a HVAC system purchased by, and installed in, the event venue located in West Bridgewater, Plymouth County, Massachusetts.

PARTIES

1. Plaintiff Canoe Club Ballroom, Inc. ("Canoe Club") is a domestic corporation with a principal place of office located at 2 South Street, West Bridgewater, Massachusetts 02379.
2. Defendant Lowe's Home Centers, Inc. ("Lowe's") is a foreign corporation registered to do business in Massachusetts with a principal office located at 1605 Curtis Bridge Road, Wilkesboro, North Carolina 28697.
3. Defendant Trane U.S. Inc. ("Trane") is a foreign corporation registered to do business in Massachusetts with a principal office located at 800 E Beatty Street, Davidson, North Carolina 28036.

JURISDICTION AND VENUE

4. Jurisdiction is proper in this Court pursuant to M.G.L. c.212§3.
5. Venue is proper in this Court as the dispute arises from the installation of a HVAC system on plaintiff's property located in Plymouth County.

#### FACTS

6. Canoe Club realleges paragraphs 1-5.
7. Canoe Club is an event venue.
8. On or around November 30, 2012, Canoe Club entered into a sales contract with Lowes ("Contract") for Canoe Club to purchase a HVAC system ("Purchased System").
9. Per the Contract the Purchased System was composed of components manufactured by Trane.
10. The Purchased System was designed improperly and insufficiently for the purpose intended.
11. Lowes failed to provide an engineered Purchased System with stamped drawings.
12. As installed, the Purchased System never functioned properly.
13. As installed, the Purchased System did not comply with the existing as-built drawings.
14. As installed, the Purchased System did not comply with internal component instruction manuals.
15. As installed, the Purchased System did not comply with Massachusetts Mechanical Code.
16. Issues with the Purchased System include, but are not limited to, the following:
  - a. Inadequate thermostat controls that led to overheating in certain event spaces.
  - b. Inadequate zoning controls that led to overheating in certain event spaces.
  - c. Lack of wiring of airflow switches.
  - d. Inadequate refrigeration piping per internal component instruction manuals.

- e. Exposed suction line in the attic space that led to condensation drip and water damage.
- f. Incorrectly installed flue piping that lead to further water damage and premature rusting.
- g. Incorrectly installed evaporator coils.
- h. Lack of furnace drain protection from freeze conditions.
- i. Incorrectly installed emergency drain pans that lack both wet switches and float switches.
- j. Inadequate fresh air design that lacks enthalpy control.
- k. Inadequate and incorrect ductwork design and installation.

17. Canoe Club received multiple customer complaints related to the improper function of the Purchased System.

18. The Purchased System failed to perform its primary function of properly regulating the temperature throughout the Canoe Club's various event spaces leading to multiple complaints of overheated spaces and high indoor humidity.

19. Canoe Club, Lowes and Trane entered into discussions to attempt to remediate Canoe Club's issues with the Purchased System ("Settlement Agreement").

20. Lowes and Trane agreed to repair the Purchased System pursuant to the negotiated terms of the Settlement Agreement.

21. The negotiated terms of the Settlement Agreement included a 10-year parts and labor warranty ("Express Warranty") issued by Lowes and Trane for the benefit of Canoe Club relative to the Purchased System.

22. Lowes and Trane have thus far refused to repair the Purchased System.

23. Lowes and Trane have not honored the Warranty.

**COUNT ONE-BREACH OF CONTRACT**  
**(Lowes)**

24. Canoe Club realleges paragraphs 1-23.

25. Canoe Club entered into the Contract with Lowes.

26. Lowes materially breached the Contract.

27. Lowes' material breaches caused Canoe Club to suffer damages in excess of \$25,000.00.

WHEREFORE Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendant Lowes Home Centers, Inc. for damages and costs stemming from Defendant's breach of contract.

**COUNT TWO-BREACH OF SETTLEMENT AGREEMENT**  
**(Lowes and Trane)**

28. Canoe Club realleges paragraphs 1-27.

29. Canoe Club entered into the Settlement Agreement with Lowes and Trane.

30. Lowes and Trane materially breached the Settlement Agreement.

31. Lowes and Trane's material breaches caused Canoe Club to suffer damages in excess of \$25,000.00.

WHEREFORE Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, Inc. and Trane U.S. Inc., for damages and costs stemming from Defendants' breach of settlement agreement.

**COUNT THREE-BREACH OF EXPRESS WARRANTY**  
**(Lowes and Trane)**

32. Canoe Club realleges paragraphs 1-51.

33. Lowes and Trane issued an Express Warranty for the benefit of Canoe Club.

34. Lowes and Trane materially breached the Express Warranty.

35. Lowes and Trane's material breaches caused Canoe Club to suffer damages;

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, Inc. and Trane U.S. Inc., for damages and costs stemming from Defendant's breach of express warranty.

**COUNT FOUR- INTENTIONAL MISREPRESENTATION**  
(Lowes)

36. Canoe Club realleges paragraphs 1 through 35.
37. Lowes supplied materially false information for the guidance of Canoe Club regarding the Purchased System, specifically, that the Purchased System would be an engineered system with stamped drawings.
38. Lowes failed to provide an engineered Purchased System with stamped drawings.
39. Lowes was aware that the Purchased System was not an engineered system.
40. Canoe Club justifiably relied on the materially false information supplied by Lowes when entering into the Contract.
41. Canoe Club was harmed, as the Purchased System has never functioned properly as it was not an engineered system.
42. Canoe Club incurred damages due to justifiably relying on the materially false information provided by Lowes.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendant Lowes Home Centers, Inc. for damages and costs stemming from Defendant's intentional misrepresentation.

**COUNT FIVE- VIOLATION OF G.L. c.93A.  
UNFAIR OR DECEPTIVE TRADE PRACTICES**  
(Lowes and Trane)

43. Canoe Club realleges paragraphs 1 through 42.
44. Canoe Club is a business for the purpose of G.L. c.93A, § 11.

45. At all times relevant to this action, Lowes and Trane were engaged in trade or commerce within the Commonwealth of Massachusetts and the facts giving rise to the present action arose from such trade or commerce.
46. Lowes knowingly and willfully engaged in actions that were unfair and deceptive as alleged in paragraphs 10-16, 19-23, 29-30, and 37-39.
47. Lowes' unfair and deceptive actions caused Canoe Club to suffer pecuniary damages.
48. Lowes' actions as detailed above are breaches of the covenant of good faith and fair dealing, and constitute knowing and willful violations of M.G.L. c. 93A.
49. Trane knowingly and willfully engaged in actions that were unfair and deceptive as alleged in paragraphs 19-23, and 29-30.
50. Trane's unfair and deceptive actions caused Canoe Club to suffer pecuniary damages.
51. Trane's actions as detailed above are breaches of the covenant of good faith and fair dealing, and constitute knowing and willful violations of M.G.L. c. 93A.
52. All conditions precedent to the maintenance of this action have been performed.

WHEREFORE, Plaintiff Canoe Club Ballroom, Inc., demands judgment against Defendants Lowes Home Centers, Inc. and Trane U.S. Inc., for three times its actual damages, plus interest, costs and attorneys' fees as provided by G.L. c. 93A, §§ 2 and 11.

Respectfully submitted,

Plaintiff  
CANOE CLUB BALLROOM, INC.  
By its attorneys:

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Andrea N. Jacobs, BBO No. 693754  
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STRANG, SCOTT, GIROUX & YOUNG, LLP  
654 Beacon Street, 9th Floor  
Boston, MA 02215  
(857) 233-5534

Dated November 10, 2017.



|  |  |   |
|--|--|---|
| <b>CIVIL TRACKING ORDER<br/>(STANDING ORDER 1-88)</b>                        | <b>DOCKET NUMBER</b><br><b>1783CV01181</b> | <b>Trial Court of Massachusetts<br/>The Superior Court</b><br> |
| <b>CASE NAME:</b><br>Canoe Club Ballroom, Inc. vs. Lowe's Home Centers, Inc. |  | Robert S. Creedon, Jr., Clerk of Courts   |
| <b>TO:</b> Lowe's Home Centers, Inc.   |  | <b>COURT NAME &amp; ADDRESS</b><br>Plymouth County Superior Court - Plymouth<br>52 Obery Street - Suite 2041<br>Plymouth, MA 02360                |

**TRACKING ORDER - F - Fast Track**

You are hereby notified that this case is on the track referenced above as per Superior Court Standing Order 1-88. The order requires that the various stages of litigation described below must be completed not later than the deadlines indicated.

**STAGES OF LITIGATION**

**DEADLINE**

|  | <b>SERVED BY</b> | <b>FILED BY</b> | <b>HEARD BY</b> |
|--|------------------|-----------------|-----------------|
| Service of process made and return filed with the Court                            |                  | 02/12/2018      |                 |
| Response to the complaint filed (also see MRCP 12)                                 |                  | 03/13/2018      |                 |
| All motions under MRCP 12, 19, and 20  | 03/13/2018       | 04/12/2018      | 05/14/2018      |
| All motions under MRCP 15  | 03/13/2018       | 04/12/2018      | 05/14/2018      |
| All discovery requests and depositions served and non-expert depositions completed | 09/10/2018       |                 |                 |
| All motions under MRCP 56  | 10/09/2018       | 11/08/2018      |                 |
| Final pre-trial conference held and/or firm trial date set                         |                  |                 | 03/08/2019      |
| Case shall be resolved and judgment shall issue by                                 |                  |                 | 11/13/2019      |

The final pre-trial deadline is not the scheduled date of the conference. You will be notified of that date at a later time.  
Counsel for plaintiff must serve this tracking order on defendant before the deadline for filing return of service.  
This case is assigned to

|   |                        |              |
|---|------------------------|--------------|
| <b>DATE ISSUED</b><br><b>11/13/2017</b> | <b>ASSISTANT CLERK</b> | <b>PHONE</b> |
|---|------------------------|--------------|

# EXHIBIT B

COMMONWEALTH OF MASSACHUSETTS

PLYMOUTH, SS.

SUPERIOR COURT DEPT.  
C.A. No.: 1783CV01181

CANOE CLUB BALLROOM, INC.,  
Plaintiff

v.

LOWE'S HOME CENTERS, INC., and  
TRANE U.S., INC.,  
Defendants

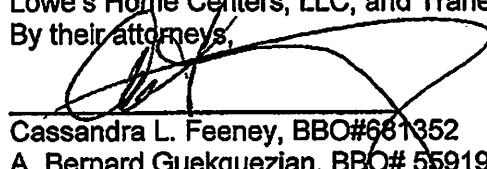
**NOTICE OF FILING OF REMOVAL TO THE UNITED STATES DISTRICT COURT**

To the Clerk of the Superior Court, Plymouth County, 52 Obery St., Plymouth, MA  
02630:

Notice is hereby given that this case has been removed to the United States District Court for the District of Massachusetts on the 22 day of December, 2017 by the Defendants, Lowe's Home Centers, LLC, improperly denominated as "Lowe's Home Centers, Inc.", and Trane U.S., Inc. A copy of the Notice of Removal to Federal Court is attached hereto as Exhibit

A. You are advised to take no further action on this matter.

Respectfully submitted,  
The Defendants,  
Lowe's Home Centers, LLC, and Trane U.S., Inc.,  
By their attorneys,

  
Cassandra L. Feeney, BBO#681352  
A. Bernard Guekguezian, BBO# 559191  
Adler | Cohen | Harvey | Wakeman | Guekguezian, LLP  
75 Federal Street, 10<sup>th</sup> Floor  
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[bguekguezian@adlercohen.com](mailto:bguekguezian@adlercohen.com)

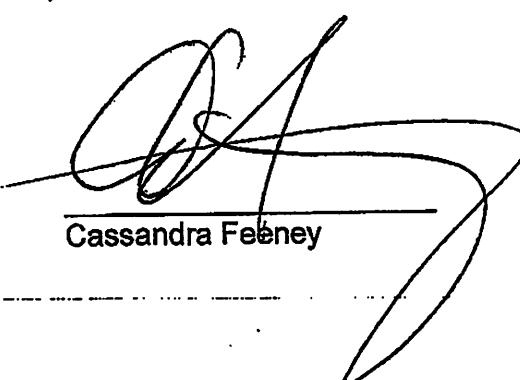
**CERTIFICATE OF SERVICE**

I, Cassandra L. Feeney, attorney for the defendants, Trane US Inc., f/k/a American Standard Inc., hereby certify that on December 22, 2017, I served a copy of the following:

1. Notice of Filing of Removal to the United States District Court

by mailing same, postage prepaid to:

Christopher D. Strang, Esq.  
Andrea N. Jacobs, Esq.  
STRANG, SCOTT, GIROUX & YOUNG, LLP  
654 Beacon Street – 6<sup>th</sup> floor  
Boston, MA 02215

  
Cassandra Feeney

1/2/18  
Adler|Cohen|Harvey|Wakeman|Guekguezian LLP

Massachusetts | Rhode Island | New Hampshire

Cassandra L. Feeney  
cfeeney@adlercohen.com  
Reply to Providence Office

December 22, 2017

Plymouth Superior Court  
Oberry Street  
Plymouth, MA 02360

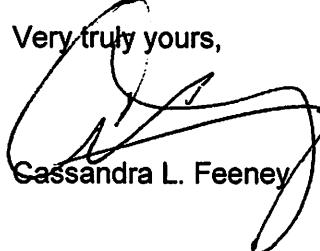
Re: **Canoe Club Ballroom, Inc. vs. Lowe's Home Centers, Inc.**  
Plymouth Superior Court, CA # 1783CV01181

Dear Sir or Madam:

Enclosed for filing and docketing in connection with the above-referenced matter, please find the following document:

1. Notice of Filing of Removal to the United States District Court;
2. Certificate of Service

Thank you for your attention to this matter.

Very truly yours,  
  
Cassandra L. Feeney

CLF/cmc  
Enclosures  
cc: Christopher D. Strang, Esq.